IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG) NO. 686 OF 2006

Ameya Arun Vashirde.] .. Petitioners

Versus

The Principal, Wilson College & Ors.] .. Respondents

Mr. V.A. Gangal, senior Advocate with Mr. S.A. Bhagat for the petitioners.

Mr. R.A. Rodrigues for the respondent No.3.

Mr. S.K. Dubey for the respondents No.1 and 2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.

DATED: 21ST MARCH, 2006

P.C. :

. The petitioner, who is a student of Third Year Bachelor of Science in Computer Science, has prayed that the respondents be directed to permit him to appear in the said examination scheduled to be held from 23rd March, 2006. The petitioner further prayed to return the original Admission Card/Hall Ticket which was issued to him. The petitioner ha also prayed for interim direction to that effect.

2. There is no dispute that respondents No.1 and

2 had informed the parents of the petitioner about the less attendance for the Academic Year 2005-2006. The parents, without any supporting material, in the meeting, submitted that the petitioner had in fact attended the requisite number of periods and also completed all his practicals. Respondent No.1 has obtained a sort of an undertaking dated 23rd February, 2006, from the petitioner and his parent that in the event the petitioner's attendance falls short, they would not allow the petitioner to appear for the examination which would be held on 22nd March, 2006. The Admission Card/Hall Tickets were issued in routine course by the University of Mumbai to the petitioner for the examination in question. He was surprised to note that on 17th March, 2006, respondents No.1 and 2 telephonically communicated the petitioner to visit the respondents office with the original Admission Card for verification. On 17th March, 2006, the petitioner visited the office and handed over the said original Admission Card to respondents No.1 and 2. The said original Card was withheld and the petitioner was informed on 17th March, 2006, itself that he would not be allowed to appear for the said examination. The petitioner and his father, therefore, made oral request to respondents No.1 and 2 to return the said original Admission Card which was refused. Therefore, the

present Petition on 20th March, 2006.

3. It is specifically mentioned in the Affidavit by respondents No.1 and 2 that the petitioner was very irregular. In the First Term his attendance was 42.59% in theory and in the Second Term, it was merely 18.91%. The undertaking of the parents dated 22nd February, 2006, was also placed on the record to support their action. It is further contended that as per Rules and Regulations, Ordinance No.119 as well as Ordinance No.125 of the University of Mumbai, it is necessary for a student to have minimum attendance of 75% for practicals as well as for theory.

4. In the present case admittedly, repeated warnings were given and the petitioner was informed about his less attendance. The undertaking in question further supports the case of the respondents that the petitioner and his parents were fully aware of the less attendance of the petitioner.

5. In the reply there is a Circular referred to, issued by the University of Mumbai dated 18th March, 2006, whereby it has been informed that admission for the examination cancelled of as many as 24 students, including the petitioner, by the Principals of the

respective Colleges. In the result, they would not allow these candidates to appear at the said examination of T.Y.B.Sc. March 2006. In absence of contrary record and material, the above record of the respondents cannot be overlooked. The presumption is always in favour of such record.

6. Considering the above, we are not inclined to grant any discretionary relief to the petitioner. Respondents have acted within the framework of law and the record. There is no breach of the principles of natural justice.

7. In view of this, the present Petition is dismissed in limine.

8. No order as to costs.

Sd/-
[F.I. REBELLO, J.]

Sd/-
[ANOOP V. MOHTA, J.]